



STATE OF HAWAII  
**REAL ESTATE BRANCH**  
PROFESSIONAL & VOCATIONAL LICENSING DIVISION  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
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TO: ALL CONDOMINIUM MANAGING AGENTS AND  
ASSOCIATIONS OF APARTMENT OWNERS

FROM: REAL ESTATE COMMISSION

RE: ASSOCIATION FIDELITY BOND EXEMPTIONS

Please be advised that as of December 21, 1994, after a review of the issue at its monthly Real Estate Commission ("Commission") meeting, fidelity bond exemptions for condominium associations shall be available only to those condominium associations unable to obtain fidelity bond coverage.

This decision is based upon a review of the statutory mandate pursuant to §514A-95.1, Hawaii Revised Statutes (HRS), and consultation with and advisement by the deputy attorney general. Section 514A-95.1, HRS, reads in relevant part "[a]n association which is **unable** to obtain a fidelity bond may seek an exemption from the fidelity bond requirement from the commission" (emphasis added).

Over the years, the Commission has attempted to accommodate those associations requesting a fidelity bond exemption. If requesting associations satisfied certain size requirements and financial criteria, then that association would be granted an exemption to the fidelity bond requirement for that year. Once granted an exemption, associations were required to apply for such at every registration period.

In its effort to accommodate associations, the Commission granted exemptions without proof of inability to obtain a bond. Therefore, effective December 21, 1994 an association requesting a fidelity bond exemption shall comply with the following requirements:

1. The condominium project consists of twenty (20) or fewer apartments; and
2. The association of apartment owners ("AOAO"), through its board of directors shall submit to the Commission letters from three (3) separate insurance carriers confirming that the AOAO is unable to obtain fidelity bond coverage.

In addition, the following financial factors will be considered:

1. The average monthly amount of maintenance fees collected by the association or its managing agent, if any, and the association's annual budget;

2. Whether the association has separate operating and reserve accounts;
3. The average monthly balance of the operating account and average monthly expenditures from it;
4. The balance of the reserve account and the procedures by which funds may be transferred into and out of it;
5. Whether checks written on the operating or reserve accounts require a countersignature;
6. Whether the board or apartment owners receive monthly bank statements for operating and reserve accounts directly from the association's financial institution or trust company;
7. Whether the board or apartment owners receive monthly statements of association expenditures from the managing agent;
8. Whether the association conducts an annual audit, review, or compilation of association funds;
9. Whether the association pays utility and regularly recurring expenses by automatic payment through its financial institution;
10. Whether the association is totally commercial or industrial with no residential units; and
11. Whether all the apartments in the project are owned by a single entity.

Should an AOA experience difficulty in obtaining fidelity bond coverage sufficient to satisfy the registration requirements of §514A-95.1, HRS, please feel free to call this office at 586-2644 to discuss the situation with a condominium specialist.

CONDOMINIUM ASSOCIATION FIDELITY BOND  
EXEMPTION APPLICATION

Information and Instructions

Who may apply for an exemption: Any association of apartment owners comprised of twenty or less apartment units, and any association consisting of one entity (projects entirely owned by one individual, corporation or partnership).

Standards for granting bond exemption: The law imposes a fidelity bond requirement to: **(1) protect association funds; and (2) ensure that associations adopt sound financial controls for handling those funds.** In determining whether to grant a bond exemption, the Real Estate Commission looks primarily at the amount of association funds at risk and the adequacy of association financial controls.

Most associations collect some money from their members to pay association common expenses. The risk of loss may increase if members lose direct control over their money, particularly if the money is aggregated into a large common fund.

Small associations with few common expenses may collect very little from their members and have only a small common fund. Members of small associations also may have more direct control over associations funds. Both circumstances may reduce the risk of loss for small associations.

Sound financial controls for collecting, depositing, transferring, and disbursing association funds also reduce the risk of loss. Those controls should prevent any one individual (or entity) from having sole control over association funds and records without the supervision of at least an (other) association owner, director, or officer. Typical financial controls include: separate operating and reserve accounts, with restricted access to the reserve account; countersignature requirements for checks drawn on association accounts; regular board review and reconciliation of association disbursements and account balances; regular audits; etc.

**Fidelity Bond Exemption Application Form**

Please complete the following questions in **black** ink:

1. Name of condominium project:  
No. of apts. \_\_\_\_\_ ☐ Residential ☐ Industrial or Commercial ☐ Entirely owned by  
one entity
2. ☐ Self-managed ☐ Agent-managed--name of managing agent  
\_\_\_\_\_  
\_\_\_\_\_
3. Budget for most recent fiscal year (19\_\_\_\_): \$ \_\_\_\_\_
4. Actual expenses for most recent fiscal year: \$ \_\_\_\_\_
5. Average monthly amount collected by association or managing agent during most recent fiscal year: \$ \_\_\_\_\_
6. Does the association have separate operating and reserve accounts? ☐ yes ☐ no
7. Maximum \$ \_\_\_\_\_ and minimum \$ \_\_\_\_\_ in reserve account during most recent fiscal year.
8. Average monthly balance of the operating account during most recent fiscal year \$  
\_\_\_\_\_

9. Who of the following must sign checks to disburse money from the association's operating account:
- ☐ one association board member only
  - ☐ managing agent only
  - ☐ at least two board members
  - ☐ both managing agent and at least one board member
  - ☐ other (please specify): \_\_\_\_\_
10. If two signatures are required for checks exceeding a certain amount, please state the amount \$ \_\_\_\_\_ (If two signatures are required for all checks, indicate amount is zero)
11. Who of the following must sign to disburse money from the association's reserve account:
- ☐ one association board member only
  - ☐ managing agent only
  - ☐ at least two board members
  - ☐ both managing agent and at least one board member
  - ☐ other (please specify): \_\_\_\_\_
- 
12. If two signatures are required for checks exceeding a certain amount, please state the amount \$ \_\_\_\_\_ (If two signatures are required for all checks, indicate amount is zero)
13. If the association has a managing agent, does the board receive and review statements of expenditures from the managing agent? ☐ yes ☐ no If yes, how often? ☐ monthly ☐ quarterly
14. Does the association receive statements directly from its bank, savings and loan, etc.? ☐ yes ☐ no  
if yes, does the board review the statements ☐ monthly ☐ quarterly?
15. Does the association have a financial audit by a CPA or PA annually? ☐ yes ☐ no  
If no audit, does CPA/PA do a review or compilation? ☐ yes ☐ no
16. Does the association have any arrangement with its bank, savings and loan, etc. for automatic payment of recurring association expenses? ☐ yes ☐ no

**AFFIDAVIT OF ASSOCIATION PRESIDENT OR VICE PRESIDENT:**

I certify that I am authorized to sign this affidavit and that the information provided on this form is true and correct. I understand that knowing or intentional misrepresentation may result in legal liability (Sections 514A-98 and 710-1017, Hawaii Revised Statutes).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

Subscribed and sworn to me before this

\_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_

Notary Public, State of Hawaii

My commission expires: \_\_\_\_\_